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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re O.W., a Person Coming Under the
Juvenile Court Law.

B234560

(Los Angeles County
Super. Ct. No. CK86777)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

T.W.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County, Stanley Genser, Commissioner. Affirmed.

William Hook, under appointment by the Court of Appeal, for Defendant and Appellant.

Andrea Sheridan Ordin, County Counsel, James M. Owens, Assistant County Counsel, and William D. Thetford, Principal Deputy County Counsel, for Plaintiff and Respondent.

T.W., the presumed father (Father) of dependent child O.W., appealed the jurisdictional and dispositional orders of the juvenile court. He contends that one of the jurisdictional findings was erroneously sustained based solely on uncorroborated hearsay evidence. We conclude the contention lacks merit and we affirm.

BACKGROUND

At the June 27, 2011 jurisdictional and dispositional hearing, the juvenile court sustained four counts of a dependency petition, only one of which is at issue on appeal. Significantly, Father does not challenge the following jurisdictional findings:

Count a-1. O.W., who was born in March 2008, was physically abused while in Father's custody. (Welf. & Inst. Code, § 300, subd. (a).)¹

Count b-4. O.W.'s mother, Patricia W. (Mother),² and Father have a history of domestic violence in which Father was the aggressor. (§ 300, subd. (b).)

Count b-5. Beginning in August 2010, Father concealed O.W. from Mother for five months. (§ 300, subd. (b).)

This appeal concerns only count b-2 of the petition, which alleged in relevant part that during the five-month period when O.W. was concealed by Father from Mother as alleged in count b-5, Father had caused "the child to reside in abandoned buildings and in roach infested homes" and had failed to change the child's diapers "for three days." For purposes of this appeal, it will be assumed that the count b-2 allegations were based on information provided by Father's girlfriend Bianca J., who returned the child to Mother after showing her where Father had been keeping the child.

¹ All further statutory references are to the Welfare and Institutions Code.

² Mother, who was given supervised custody of the child, is not a party to this appeal.

Prior to the jurisdictional and dispositional hearing, Father timely objected under section 355 to “any and all statements attributed to Bianca J.” that were contained in the detention and jurisdiction/disposition reports of the Los Angeles County Department of Children and Family Services (Department), as well as the investigative reports of the Los Angeles Police Department (collectively, the reports). Father sought either to cross-examine Bianca or have her statements stricken from the reports.

When Bianca did not appear at the June 27 hearing, the Department informed the juvenile court that it had attempted to subpoena Bianca, who had moved to Florida. In light of Bianca’s unavailability for cross-examination, the court stated that it would consider her statements but would not sustain any of the counts based solely on them.

Neither parent presented evidence at the June 27 hearing. After considering the Department’s reports, which included Bianca’s hearsay statements, the juvenile court stated, “I don’t have any trouble finding support for . . . (b)(2) independent of the lay witness [Bianca].” The court pointed out that Mother, who had gone with Bianca to the location where Father had been keeping the child, had corroborated Bianca’s account of the child’s unsafe and filthy living conditions. The court explained: “Most of the specific descriptive language is from the lay witness but that corroborates Mother’s testimony; therefore, since I’m not relying on the lay witness exclusively, I find (b)(2) true also.”

DISCUSSION

Father contends on appeal that count b-2, which alleged that he had endangered O.W. by keeping him in abandoned buildings and roach-infested homes, and by not changing his diaper for three days, was improperly sustained based solely on Bianca’s uncorroborated hearsay statements. We are not persuaded.

Under section 355, hearsay evidence contained in the Department’s reports is admissible and may be relied upon to support a jurisdictional finding to the extent allowed by statute. Subdivision (c)(1) of section 355 provides in part: “If any party to

the jurisdictional hearing raises a timely objection to the admission of specific hearsay evidence contained in a social study, the specific hearsay evidence shall not be sufficient by itself to support a jurisdictional finding or any ultimate fact upon which a jurisdictional finding is based, unless the petitioner establishes one or more of the following exceptions: [¶] (A) The hearsay evidence would be admissible in any civil or criminal proceeding under any statutory or decisional exception to the prohibition against hearsay.”

Section 355 does not preclude the admission of all hearsay evidence at a jurisdictional hearing. It instead provides that “if a timely objection is made and no hearsay exception applies, the evidence must be corroborated. (*In re B.D.* (2007) 156 Cal.App.4th 975, 983-984 (*B.D.*)).” (*In re R.R.* (2010) 187 Cal.App.4th 1264, 1280 (*R.R.*)). The question we face is whether Bianca’s statements were sufficiently corroborated to support the jurisdictional finding at issue.

“Corroborating evidence is evidence which supports a logical and reasonable inference that the act described in the hearsay statement occurred. (*B.D.*, *supra*, 156 Cal.App.4th at p. 984.) The quantum of corroboration necessary to support a jurisdictional finding is ‘somewhat analogous to the rule in criminal law requiring independent corroborative proof of accomplice testimony,’ that is, direct or circumstantial evidence, even if slight, is sufficient if it tends to connect the accused with the act. (*Ibid.*)” (*R.R.*, *supra*, 187 Cal.App.4th at pp. 1280-1281.)

Courts have held that the corroborating evidence under section 355 need not precisely mirror the disputed statement. In *B.D.*, for example, “the mother objected on hearsay grounds to the statements of various witnesses included in the detention and jurisdictional reports, each of whom said they saw mother hit the child. The juvenile court sustained the objection and dismissed the petition, finding no independent evidence upon which it could rely to support the petition. The appellate court reversed, finding the mother’s statements regarding the incident, including several inconsistent statements, as well as the child’s changed attitude toward the mother after the incident, provided sufficient evidence from which it could reasonably be inferred that the act of which the

mother was accused occurred. (*B.D.*, *supra*, 156 Cal.App.4th. at pp. 985-986.)” (*R.R.*, *supra*, 187 Cal.App.4th at p. 1281.) Similarly, in *R.R.*, the father’s medical records, although hearsay, were admissible under section 355 to prove his recent drug use because the records were corroborated by the mother’s observations. (*Id.* at p. 1281 [“Here, mother’s statement to the social worker that father had used methamphetamine with mother shortly before she entered a drug program, and that he had become ill and had been taken to the hospital, was sufficient corroboration. Father does not argue the corroboration was insufficient as a matter of law, only that mother was not credible. That, of course, was for the juvenile court to decide.”].)

Father contends that “there is no evidence corroborating Bianca’s statements about [O.W.] residing in abandoned buildings, living in roach-infested homes, or having an unchanged diaper for three days. None of [Mother’s] statements indicated that any of these facts were true and there were no statements by any other witnesses in the social worker’s reports.”

The test, however, is not whether Mother’s statements precisely matched Bianca’s statements. Rather, “[t]he quantum of corroboration necessary to support a jurisdictional finding is ‘somewhat analogous to the rule in criminal law requiring independent corroborative proof of accomplice testimony,’ that is, direct or circumstantial evidence, even if slight, is sufficient if it tends to connect the accused with the act. [Citation.]” (*R.R.*, *supra*, 187 Cal.App.4th at pp. 1280-1281.)

The Department recites the following evidence of corroboration from which the truth of Bianca’s statements may reasonably be inferred (internal record references are omitted): “When Bianca took mother to father’s home, mother observed it to be filthy, with no bathroom. Mother stated that as long as she had known father, he never held a job. Father told his previous fiancée and Bi[anc]a he was out of work, struggling to care for [O.W.] and had no place to live. Mother observed [O.W.] to be filthy and underfed. When Bianca brought the child to mother, mother found him in a diaper soiled with feces. Mother told Ms. Markovitch [the Department’s social worker] that [O.W.] complained that his buttocks hurt. And, she reported that when [O.W.] initially returned

home he had night terrors. Also, Detective White told the [dependency investigator] that three women reported to him that father neglected [O.W.] [¶] Furthermore, other statements were corroborated, which would be an indication that the statements in question were also true. For example, Bianca's and Carolyn's [the former fiancée] statements regarding their contact with father and [O.W.] were almost identical."

We conclude that the above evidence, which Father does not dispute, constitutes sufficient corroboration of Bianca's statements to support a jurisdictional finding.

DISPOSITION

The jurisdictional and dispositional orders are affirmed.

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SUZUKAWA, J.

We concur:

EPSTEIN, P. J.

MANELLA, J.